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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,480	12/31/2003	Jayant Chakravarty	18,149	9854

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EXAMINER

MATZEK, MATTHEW D

ART UNIT PAPER NUMBER

1771

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/750,480	Applicant(s) CHAKRAVARTY ET AL.	
	Examiner Matthew D. Matzek	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The Amendment dated 12/16/2005 has been fully considered and entered into the Record. The amendment of the claims 1, 11 and 21 contain no new matter. Claims 1-29 are currently active. The rejection of claim 6 in view of Savich (US 4,005,957) has been withdrawn as the reference fails to teach the use of binder fibers. The rejection of claims 1-29 in view of Enloe has been withdrawn as it is unclear as to whether or not the applied apparatus would form the instantly claimed channels.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The instantly claimed article calls for discontinuous absorbent zones and channels with a density less than the density of the absorbent structure adjacent the channels. Examiner has interpreted the empty spaces provided by the manufacturing process in the Specification (pages 36-39) as the channels. They necessarily have a density less than their adjacent areas as they possess no material. According to the Specification the channels are formed by inserting a forming member **402** into the foraminous member **205**. The depth and size of the forming member grid will depend on the

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desired depth of any of the channels. Following the insertion of the forming member the absorbent fibers and optional superabsorbent materials are introduced into the foraminous member. This construction process will create an article with uniform density throughout the article except in the channels created by the forming member, which are empty voids. The finished product will have dug-out channels within the absorbent articles. At the bottom of these channels is absorbent material. Therefore, the absorbent zones are not discontinuous as instantly claimed. The process provided in the Specification only provides for a continuous absorbent layer with thicker areas and thinner areas that are created from the use of the forming member.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. According to the Specification, pages 36-39, the channels are formed by inserting a forming member **402** into the foraminous member **205**. The depth and size of the forming member grid will depend on the desired depth of any of the channels. Following the insertion of the forming member the absorbent fibers and optional superabsorbent materials are introduced into the foraminous member. This construction process will create an article with uniform density throughout the article except in the channels created by the forming member, which are empty voids. Therefore, it is unclear to Examiner as to what constitutes a channel and how the density of the absorbent structure in the channels is less than the density of a portion of the absorbent structure adjacent the channels when the creation process creates channels that are void of an "absorbent structure" or material. Examiner takes the position that the instantly

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claimed channels may constitute regions void of material surrounded by areas containing absorbent material, which would necessarily have a higher density.

4. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language within independent claims 1, 11 and 21 are internally inconsistent. The use of the term “discontinuous” and “channels” read in light of the process making the claimed article set forth in the Specification arrive at two materially different articles. As previously pointed out on pages 36-39 of the Specification the finished product will have a continuous absorbent zone with thicker and thinner areas and above the thinner absorbent zones is the claimed channel. Therefore, the absorbent article does not have discontinuous absorbent zones as the absorbent material is present at the bottom of the channels.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugito (EP 933,074) as substantially set forth in the Office Action dated 9/16/2005.

6. Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Savich (US 4,005,957) as substantially set forth in the Office Action dated 9/16/2005.

Claim Rejections - 35 USC § 102/103

7. Claims 2, 7, 12 and 21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sugito (EP 933,074) as substantially set forth in the Office Action dated 9/16/2005.

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8. Claims 2 and 7 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Savich (US 4,005,957) as substantially set forth in the Office Action dated 9/16/2005.

Claim Rejections - 35 USC § 103

9. Claims 3-5, 8-10, 13-15 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugito (EP 933,074) as applied to claims 1, 11 and 21 above and as substantially set forth in the Office Action dated 9/16/2005.

10. Claims 3-5 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savich (US 4,005,957) as applied to claims 1 and 11 above and as substantially set forth in the Office Action dated 9/16/2005.

11. Claims 6, 16-20 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugito (EP 933,074) as applied to claims 1, 11 and 21 above further in view of Schilkowski (US 6,407,309) as substantially set forth in the Office Action dated 9/16/2005.

Double Patenting

Claims 1-29 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-31 of copending Application No. 10/460,882 in view of Sugito (EP 933,074) as substantially set forth in the Office Action dated 9/16/2005.

Response to Arguments

12. Applicant's arguments filed 12/15/2005 have been fully considered but they are not persuasive.

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13. Applicant argues that Sugito does not teach an absorbent structure wherein “the density of the absorbent structure in the channels is less than the density of a portion of the absorbent structure adjacent the channels” because there is no absorbent structure in the channels.

Examiner agrees that no absorbent material is provided in the channels of Sugito, however when examining the claims in light of the Specification, specifically pages 36-39, the article created has a uniform density with channels void of material. The channels are created by absorbent material being arranged around the forming member **402** creating a material free channel. In light of the Specification, the invention of Sugito anticipates the structure of instant claim 1 and 11 as the areas void of material necessarily have a density less than the adjacent areas containing absorbent material.

14. Applicant argues that Savich fails to teach an article with channels with a lower density than a portion of the absorbent structure adjacent the channels. Examiner maintains his interpretation that the areas surrounding the channels all possess the same density but differing basis weights. The article of Savich is made in a similar manner to that of Applicant in that the absorbent fibers are foraminous member with a contour, which create the channels. The channels are void of material and the surrounding materials necessarily have a higher density.

15. Applicant argues that Examiner has not provided any motivation to combine the Sugito and Schilkowski references. Examiner has provided motivation for their combination in the previous Office Action and has restated it here for convenience. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the article of Sugito with the binder fibers of Schilkowski motivated by the desire to prevent the “dusting” of the absorbent cellulosic fibers. The binder fibers would improve the structural integrity of the

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article by helping to retain the fibers of the absorbent article and their associated "fines" or fragmented fibers (dust).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mdm

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